

REMARKS

In the Final Office Action, the Examiner objected to claims 1, 10, and 11 because of informalities; rejected claims 1, 10, and 11 under 35 U.S.C. § 102(e) as being anticipated by Mitsui (U.S. Publication No. 2002/0141647); and objected to claims 2-9 as being dependent upon a rejected base claim.

Applicants gratefully acknowledge the Examiner's indication of allowable subject matter in claims 2-9. By this amendment, Applicants propose amending claims 1, 10, and 11. Claims 1-11 are pending.

I. Objections

The Examiner objected to claims 1, 10, and 11, for this claimed term asserting that the result of the step of making lacks antecedents basis. Applicants propose to amend claims 1, 10, and 11 to correct this informality for this claimed term, and note that such changes do not raise new issues requiring further search and/or consideration. Therefore, Applicants respectfully request that the Examiner enter these amendments and withdraw these objections.

II. The Rejection of Claims 1, 10, and 11 Under 35 U.S.C. § 102

Applicants respectfully traverse the Examiner's rejection of Claims 1, 10, and 11 under 35 U.S.C. § 102(e) as being anticipated by Mitsui.

In order to support a rejection under 35 U.S.C. § 102(e), each and every element as set forth in the claims must be found, either expressly or inherently described, in a single prior art reference. M.P.E.P. § 2131. Mitsui fails to teach each and every recitation of claims 1, 10, and 11.

Claim 1 as amended recites “[a] micropattern measuring method,” including *inter alia*, “acquiring an image of a micropattern including plural layers” and “acquiring edge coordinates of a pattern to be measured from the patterns which are specified by results of the step of making each of the groups belong to the layers.” At page 5 of the Office Action, the Examiner asserts that “Mitsui discloses ‘acquiring edge coordinates (EG1, Figs 30a) of a pattern (pattern of LP13) to be measured from the patterns (patterns of LP13, LP14, HP7, Fig. 30a) which are specified by the result of the step of making each of the groups belong to the layers (EG1 belongs to LP13, EG3 belongs to LP14, Fig. 30a, EG5 belongs to HP7, Fig. 30b)’.” Mitsui, however, discloses that “FIG. 30A shows an example of an image in which a plurality of patterns co-exist. FIG. 30A shows a case where two line patterns LP13 and LP14 having different line widths and a single hole pattern HP7 exist in a same measuring region” (emphasis added). See Mitsui, paragraph 132.

Thus, Mitsui discloses a pattern evaluating method that detects multiple patterns that co-exist on a single measuring region (i.e., a single layer). These patterns do not constitute a micropattern with plural layers. Therefore, Mitsui fails to teach or suggest at least the steps of “acquiring an image of a micropattern including plural layers” and “acquiring edge coordinates of a pattern to be measured from the patterns which are specified by results of a step of making each of the groups belong to the layers,” as recited in claim 1. Accordingly, Applicants respectfully request the Examiner to reconsider and withdraw the rejection of claim 1 under 35 U.S.C. § 102(e) as being anticipated by Mitsui.

Claims 10 and 11, although of different scope, recite elements similar to that discussed above with regard to claim 1. Applicants therefore request the Examiner to withdraw the rejection of claims 10 and 11 for at least the same reasons discussed above with respect to claim 1.

III. Conclusion

Applicants respectfully request that this Amendment under 37 C.F.R. § 1.116 be entered by the Examiner, placing claims 1-11 in condition for allowance. Applicants submit that the proposed amendments of claims 1, 10, and 11 do not raise new issues or necessitate the undertaking of any additional search of the art by the Examiner, since all of the elements and their relationships were claimed earlier. Therefore, this Amendment should allow for immediate action by the Examiner.

Finally, Applicants submit that the entry of the amendment would place the application in better form for appeal, should the Examiner dispute the patentability of the pending claims.

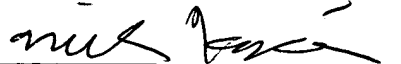
In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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